

# FIRST UNION RAIL

One O'Hare Centre  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Tel. 847.318.7575  
Fax. 847.318.7588

RECORDATION NO. 26547 FILED

SEP 13 '06 3:42 PM

SURFACE TRANSPORTATION BOARD



VIA UPS 2<sup>nd</sup> DAY AIR

September 11, 2006

Mr. Vernon E. Williams  
Surface Transportation Board  
1925 K Street, N.W., Room 704  
Washington, DC 20423-0001  
Attn: Recordation of Railroad Equipment

**Re: Memorandum of Lease Agreement**

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) originals and one (1) copy of a Memorandum of Lease Agreement, dated May 2, 2006, a primary document as defined in the Board's Rules for the Recordation of Documents. Please file this Memorandum of Lease as a primary document since a Master Lease has not been filed with the Surface Transportation Board. The names and addresses of the parties to the enclosed document are:

Lessor: First Union Rail Corporation  
One O'Hare Center  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Lessee: Rock & Rail  
3655 Outwest Drive  
Colorado Springs, CO 80910

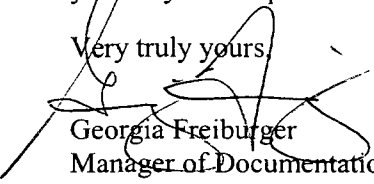
A description of the railroad equipment covered by the enclosed document is fifty-five (55) 2300 cu. ft. open top hopper cars, with NDYX marks (see Exhibit A for number).

A short summary of the document to appear in the index follows: **Memorandum of Lease**

Also enclosed is a check in the amount of \$34.00 payable to the order of the Surface Transportation Board covering the required recordation fee. Kindly return one (1) stamped original of the enclosed document to the undersigned along with the additional copies.

If you have any questions regarding the above-referenced matter, please contact me at (847) 384-5387. Thank you for your cooperation in this matter.

Very truly yours,

  
Georgia Freiburger  
Manager of Documentation

Enclosure  
(RORA001)

ASSGN. NO.: RORA001

SEP 13 '06 3-42 PM

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (the "Memorandum") is made and entered into as of this the 2nd day of May, 2006, by and between First Union Rail Corporation ("Lessor"), a North Carolina corporation, and Rock & Rail LLC ("Lessee"), a Colorado Limited Liability Company.

WITNESSETH:

The undersigned Lessor and Lessee have entered into that certain Lease Agreement (the "Lease"), dated as of April 25, 2006, whereby Lessor has agreed to lease to Lessee certain railcars pursuant to Rider No. 1 to the Lease (the "Rider"), as described in more particular on Exhibit A attached hereto, effective as of April 17, 2006, and subject to the terms, conditions and provisions of the above-mentioned Lease and Rider.

IN WITNESS WHEREOF, the parties hereto have each caused this Memorandum to be duly executed under seal by their respective officers duly authorized as of the date and year first above written.

LESSOR:

FIRST UNION RAIL CORPORATION

By: Richard F. Seymour

Name: RICHARD F. SEYMOUR  
Vice President Sales & Marketing

ATTEST:

By: Susan Grokulska

Name: SUSAN GROKULSKY

Title: MGR. OF DOCUMENTATION

Title: \_\_\_\_\_

Executed on this 2nd day of May, 2006.

[CORPORATE SEAL]

STATE OF ILLINOIS

COUNTY OF COOK

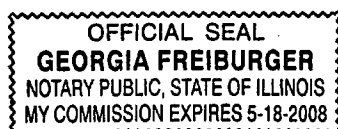
I, GEORGIA FREIBURGER, a Notary Public of the County and State aforesaid, certify that RICHARD F. SEYMOUR personally appeared before me this day and acknowledged his/her due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal, this 2nd day of May, 2006.

[Signature]  
Notary Public

My Commission Expires:

5-2008  
(Notary Public)



**LESSEE:**

ROCK & RAIL LLC

ATTEST:

By: Franklin Lloyd

Name: Franklin Lloyd

Title: President

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Executed on this 25 day of April, 2006

[CORPORATE SEAL]

STATE OF Colorado

COUNTY OF Fremont

I, Sharon Smith, a Notary Public of the County and State aforesaid, certify that FRANKLIN Lloyd personally appeared before me this day and acknowledged his/her due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal, this 25 day of April, 2006.

Sharon Smith  
Notary Public

Commission Expires:

5/25/09  
(Notary Public)

**EXHIBIT A**  
**to**  
**MEMORANDUM OF LEASE**

- I.      NUMBER OF CARS:            Fifty-five (55)
- II.     DESCRIPTION OF CARS:    2300 cu. ft. open top hopper cars (AAR car type H350), 1979 built,  
loading to 263,000 lbs. gross weight on rail.
- III.    CAR NUMBERS:
- |      |        |      |        |
|------|--------|------|--------|
| NDYX | 910027 | NDYX | 910059 |
| NDYX | 910028 | NDYX | 910060 |
| NDYX | 910029 | NDYX | 910061 |
| NDYX | 910031 | NDYX | 910063 |
| NDYX | 910032 | NDYX | 910064 |
| NDYX | 910033 | NDYX | 910065 |
| NDYX | 910034 | NDYX | 910066 |
| NDYX | 910035 | NDYX | 910067 |
| NDYX | 910037 | NDYX | 910069 |
| NDYX | 910038 | NDYX | 910070 |
| NDYX | 910039 | NDYX | 910071 |
| NDYX | 910040 | NDYX | 910072 |
| NDYX | 910041 | NDYX | 910073 |
| NDYX | 910042 | NDYX | 910074 |
| NDYX | 910043 | NDYX | 910075 |
| NDYX | 910044 | NDYX | 910076 |
| NDYX | 910045 | NDYX | 910077 |
| NDYX | 910046 | NDYX | 910078 |
| NDYX | 910047 | NDYX | 910079 |
| NDYX | 910048 | NDYX | 910080 |
| NDYX | 910049 | NDYX | 910081 |
| NDYX | 910050 | NDYX | 910082 |
| NDYX | 910052 | NDYX | 910083 |
| NDYX | 910054 | NDYX | 910084 |
| NDYX | 910055 | NDYX | 910085 |
| NDYX | 910056 | NDYX | 910086 |
| NDYX | 910057 | NDYX | 910087 |
| NDYX | 910058 |      |        |